



City of Tualatin

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OFFICIAL

TUALATIN PLANNING ADVISORY COMMITTEE - MINUTES OF February 7, 2012

TPAC MEMBERS PRESENT:

Paul Sivley
Mike Riley
Alan Aplin
Bill Beers
Steve Klingerman
Jeff DeHaan
Nic Herriges (arrived late)

STAFF PRESENT:

Aquilla Hurd-Ravich
Brenda Braden
Lynette Sanford

TPAC MEMBER ABSENT: None

GUESTS: None

1. **CALL TO ORDER AND ROLL CALL:**

Mr. Sivley called the meeting to order at 6:32 pm. Roll call was taken.

2. **APPROVAL OF MINUTES:**

Mr. Sivley asked for review and approval of December 6, 2011 TPAC meeting minutes. MOTION by Sivley SECONDED by DeHaan to approve the December 6, 2011 TPAC meeting minutes. MOTION PASSED 6-0.

3. **COMMUNICATION FROM THE PUBLIC (NOT ON THE AGENDA):**

None

4. **ACTION ITEMS**

A. Elect a Chair and Vice Chair to Represent the Tualatin Planning Advisory Committee

MOTION by Sivley SECONDED by DeHaan to nominate Mike Riley as the Chair of TPAC. MOTION PASSED 7-0.

MOTION by DeHaan SECONDED by Sivley to nominate Alan Aplin as Vice Chair of TPAC. MOTION PASSED 7-0.

These minutes are not verbatim. The meeting was recorded, and copies of the recording are retained for a period of one year from the date of the meeting and are available upon request.

5. COMMUNICATION FROM CITY STAFF:

A. Calendar Look Ahead

Planning Manager Hurd-Ravich discussed the calendar look ahead for the 2012 TPAC meetings. There are potential conflicts for the July 3 and August 7 meetings. July 3 falls the day before a holiday and August 7 is the same evening as Tualatin's "National Night Out". Ms. Hurd Ravich asked the TPAC members if we should cancel one of the meetings or try to reschedule.

Mr. Riley mentioned that we should try to move our meetings to the third Tuesday or Thursday of the month. Mr. DeHaan stated he is unable to attend on Thursdays due to other commitments. Mr. Klingerman asked how this impacts the city. Ms. Hurd-Ravich responded that the Transportation Task Force meets Thursday's and the majority of the other advisory committees meet on Tuesday's. The preference was to make the meetings the third Tuesday of every month. Mr. Beers added that we may want to consider canceling the July meeting and rescheduling the August meeting. The consensus was to check the city calendar to see if this change will conflict with other city committees. Ms. Hurd-Ravich will check into the City's calendar to see any potential conflicts of the proposed dates and we'll continue discussion at the next meeting.

B. Planning Commission Orientation-Brenda Braden, City Attorney

City Attorney Brenda Braden reviewed her memo, which explained some of the responsibilities and procedures the TPAC members will have to follow for the different quasi-judicial hearings they will be conducting as a Planning Commission.

Ms. Braden discussed that "land use hearings" fall into two categories: legislative and quasi-judicial. This group will only be conducting quasi-judicial. Because legislative changes require the City Council to act to pass an ordinance, the Planning Commission's role will not differ from what they had been doing as TPAC for legislative matters. You will hear the staff report, take testimony, deliberate, and make a recommendation to City Council.

A quasi-judicial hearing involves the application of planning standards in a particular case that affects one or a small group of property owners. These cases now assigned to the Planning Commission-variances, sign variances, reinstatement of use, transitional use permits and industrial master plans-the process becomes more formal because the commission will be the hearing body for the first evidentiary hearing.

ORS 197.763 lays out a very detailed list of requirements for quasi-judicial hearings. Before each individual hearing, ORS 197.763 specified language that must be read before the beginning of the hearing, the process to be followed at the hearing; when continuances must be granted, and when the record must be left open for 7 days after the hearing. In these cases, the Planning Commission will follow the formal structure, deliberate, and then make a decision, which must be supported by written findings. An applicant or someone who participated in the hearing, either in person or in writing, may

request a review by the City Council of the Planning Commission's decision. Ms. Hurd-Ravich asked if we can reopen a hearing. Ms. Braden responded that they can reopen the hearing, but then there will be an opportunity for additional testimony. Ms. Braden added that she will be happy to attend meetings as needed.

The next item discussed was rules regarding "ex parte contacts". An "ex parte" contact is one which is made to a Commissioner or Commissioners outside the public hearing about the case to be heard. It may be from an applicant, the applicant's agent or any other person. Before each hearing the Chair will read the language that requires a Commissioner to disclose all ex parte contacts at the beginning of hearing and any biases. The Commissioner must state the circumstances and content of the ex parte communication. The reason for this is to be certain that those not present for the ex parte contact will know what was said and have the opportunity to address and rebut the statements at the public hearing. The City Council has found that the best way to avoid problems within a quasi-judicial hearing and to avoid appearing biased is to avoid ex parte communications to the extent possible. You are not required to avoid them but you must disclose them fully.

Ms. Braden then discussed conflict or potential conflict of interest. An actual conflict of interest is defined as "any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or the person's relative or any business which the person or a relative of the person is associated" ORS 244.020(1). In cases of an actual conflict of interest, the Commission will have to announce the conflict then step down and not participate in the hearing in any manner. For example, a property owner has applied for a variance and if the variance is granted, your business will receive pay for working on the project for the owner. If it isn't granted, you or your business will lose a job. Ms. Braden added that she has never experienced this with a committee member, but please contact her if you have any questions or concerns.

A "potential conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which could be to the private pecuniary benefit or detriment of the person's relative, or a business with which the person or the person's relative is associated, unless the pecuniary benefit arises out of the following:

- a) An interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the person of the office or position.
- b) Any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the person, or the person's relative or business with which the person or person's relative is associated or engaged.
- c) Membership in or membership on the board of directors of a nonprofit corporation that is tax exempt under 501(c) of the internal Revenue Code"

The last item Ms. Braden discussed from the memo that will be different for the Planning Commissioners is that each of them will be required by the State of Oregon's Government Ethics Commission to file a Statement of Economic Interest by April 15, 2012. The City files their names with the Government Ethics Commission when it files the City Councilors names. (The City is in the process of sending the names to the Ethics Commission now.) The Commission will then send the forms to the City and the City will send the forms to each of them. It is then their responsibility to fill out and file the form with the State by the deadline.

Ms. Braden also addressed the issue of how the first amendment affects signage here in Oregon. Political, commercial, and religious signs are all treated equally and are protected. We can regulate location, size, and time but not the content. If we try to mandate the content, they could argue that it would be a violation of free speech.

C. Update on the Transportation System Plan and Linking Tualatin

Planning Manager Hurd-Ravich gave an update on the Transportation System Plan (TSP), which included a PowerPoint presentation and video.

The meeting held on November 29th had a great turn-out, with approximately 30-40 people in attendance. Mr. Aplin, Mr. Beers, Mr. Riley, and Mr. Herriges are all members of the Task Force. Roles and responsibilities were discussed, as well as an overview of projects, Transportation System Plan 101, and Linking Tualatin.

The next meeting was held on December 15th. Consultants presented a virtual existing conditions report on existing value statements for both TSP and Linking Tualatin. Small groups identified their core values. During the January 19th meeting, an introduction to future conditions and land use scenarios were discussed. There was also a review on Goals and Objectives regarding the TSP and Linking Tualatin.

Last week, on February 2nd, TSP Future conditions were discussed. A PowerPoint was presented which discussed working groups and open house preparations. Discussion ensued on how these projects help facilitate growth, the flow of traffic and congestion, and to determine what our needs and deficiencies are.

The TSP Technical Work Group has drafted an existing conditions report and it is available for review. The draft plan and policy report are complete which incorporates plans and policies from the state, regional, and county level. Future conditions work is also underway with the report review available next month. In the Linking Tualatin Technical Work Group, goals and objectives are being formulated. The Public Outreach Plan will be finalized February 23rd. Focus area selection criteria is being identified and a key transit connections map is being developed.

Our web pages are up and running and the comment page is still available. The public can still leave a comment but the most of the comments have already been incorporated into the existing conditions report. There are weekly updates on the TSP

home page. We have developed a monthly newsletter to update everyone on our progress. The newsletter is distributed to all the Advisory Committees, Task Force members, CIO officers, Council members, and to everyone who has signed up on the comment page.

Ms. Hurd-Ravich referred to the last slide which detailed the upcoming events calendar for the TSP. The Task Force will be meeting again on February 23rd and March 15th. The Transit Working Group will be meeting February 9th and March 29th. An open house is scheduled for February 16th at the Living Savior Lutheran Church from 4-7pm, which Ms. Hurd-Ravich encouraged everyone to attend. Discussion will include TSP, Linking Tualatin, and the latest developments in the Basalt Creek Area. Tonkin Trail will also have a booth.

At the March 6th TPAC meeting, the action item is input on goals and objectives and existing conditions. Goals and objectives will be accepted by the task force and will come to TPAC for presentation and acceptance. Before we can progress to council, we have to get TPAC recommendation to accept the goals and objectives or recommend something else.

Ms. Hurd-Ravich presented a video which was made to encourage participation in the working groups. The goal is to improve Tualatin and make better transit connections. The video can be viewed on the City's web page, YouTube, Facebook, Twitter, and the Linking Tualatin and TSP web pages.

Mr. Sivley asked for an update on the Stafford forum. Ms. Hurd-Ravich attended a transportation meeting last Saturday, February 4, sponsored by Clackamas County. She commented that it was a good combination of Clackamas County and Stafford Hamlet hosting the event. There were two panels involved; the first was Clackamas County Director of Transportation and an ODOT Regional 1 representative. Discussion included how resources are declining and how the budget is being utilized to maintain bridges and paving.

The second panel included the mayors of Lake Oswego and West Linn and Councilor Grimes who discussed their own cities' transportation systems and concerns. Lake Oswego was concerned about cut-through traffic through their established neighborhoods. West Linn had concerns about Highway 43 and how it will be impacted. The meeting ended 45 minutes early. A brief discussion ensued regarding governance, concept plans and the urban growth boundary.

6 FUTURE ACTION ITEMS:

Ms. Hurd-Ravich reported that our next meeting on March 6th will be our first meeting as a Planning Commission. The action item before them will be the annual report. Every year we go through what was completed the year before. Ms. Hurd-Ravich asked if one of the committee members would be willing to present the annual report to council with her on March 12th. Additionally, the agenda will include TSP and Linking Tualatin goals and objectives and existing conditions. Senior Planner Harper will present a briefing on

the Plan Text Amendment regarding the Core Area Parking District. Part of the discussion will include eliminating the Fee and Lieu program.

Mr. Aplin requested that someone fill in for him on the February 23rd Task Force meeting; Mr. DeHaan agreed. We will add Mr. DeHaan to the Task Force list and send him a packet.

7 ANNOUNCEMENTS/PLANNING ADVISORY COMMITTEE COMMUNICATION

Mr. Klingerman inquired on the subject of banner signs on the corner of Boones Ferry Road and Tualatin Sherwood Road. Ms. Braden responded that Clark Lumber has owned the property since the early 80's and have always used the fence for signs. The Code Enforcement Officer has been on the property and has determined, along with Sr. Planner Harper, that we may have a non-conforming sign issue. A meeting to discuss this issue will be scheduled in the near future.

Mr. DeHaan inquired about the Riverhouse property and the property that includes two older homes along Boones Ferry Road, across from the library. He feels as this would be a great opportunity for redevelopment. Ms. Hurd-Ravich responded that the property is zoned central commercial, and the existing houses have been grandfathered in. One thing that has changed dramatically within the past two years is that we no longer have Urban Renewal. Flood plains have also changed and approval may not be the same as before. Ms. Braden stated the developer of the Riverhouse property has informed the City that it has 6 million dollars invested in the property but is uncertain what the asking price is. The two houses are currently occupied and one of the owners of the property does not want to leave. Ms. Braden stated that the city does not have the funds to purchase the property for development.

Mr. Herriges mentioned that he was late to the meeting due to attending another city meeting. During this meeting, the city staff introduced themselves to the CIO officers. The meeting was well attended with approximately 20 people in attendance. Mr. Herriges encouraged all the members to support CIO's and the CIO officers.

8. ADJOURNMENT

MOTION by Sivley, SECONDED by Klingerman to adjourn the meeting at 8:10 pm.
MOTION PASSED 7-0.

_____ Lynette Sanford, Office Coordinator